

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

JUNE 14, 2005

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey, Executive Secretary Choe and Superintendent Huskey.

Lisa Goldner of Bose McKinney and Evans, Mike Curtz of ILBA, John Barnett, Steve Rettig and Grant Monahan of IRC were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairperson Brizzi moved to approve the minutes submitted for the May 17, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Commissioner Sturtz moved to approve the PAD forms submitted for the June 14, 2005 meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

RR46-05204 CHS CORPORATION – Hearing Judge Choe stated this was a recommended approval of a transfer of location by the LaPorte County Local Board and an upholding of that approval by the Commission. The remonstrators filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Brizzi moved to uphold the Hearing Judge's recommendation and approve the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR18-18190 HINEE'S, INC. – Hearing Judge Choe stated this was a recommended approval of a new Sunday sales permit by the Delaware County Local Board and an upholding of that approval by the Commission. The remonstrators filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Brizzi moved to uphold the Hearing Judge's recommendation and approve the new Sunday sales permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **CONSIDERATION OF APPLICATIONS**

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Six hundred ninety-three (693) renewals approved, eight-four (84) new and/or transfer permits approved, twelve (12) permits approved for catering, eight (8) permits approved for first year escrow, ten (10) permits approved for second year escrow, seven (7) permits approved for third year escrow, eight (8) permit approved for fourth year escrow and one (1) permit approved for fifth year escrow.

## **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairperson Brizzi moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **APPLICATIONS FOR DISCUSSION**

ARC ANGEL, INC. - Chairman Heath noted this applicant is requesting permission to file for a type 112 permit and a type 210-1 permit simultaneously.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

114 NORTH, LLC - Chairman Heath noted this applicant is requesting permission to file for a type 103 permit and a type 210-1 permit simultaneously.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC49-03263 INDIANAPOLIS ATHLETIC CLUB, INC. - Chairman Heath stated this applicant is requesting that the Commission convert this type 211-1 club permit to a type 210 restaurant permit.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-20134 LA CANASTA CANTINA, INC. - Chairman Heath stated this was a permit purchased at auction. The permittee has not been able to secure a location. The permittee is requesting permission to transfer this permit to a new owner, who has a location. The permittee stated he is not profiting from the sale of the permit.

Vice Chairperson Brizzi moved to allow for the transfer papers to be filed. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL04-21710 FELLURE FOODS, INC. – Chairman Heath noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL77-21570 VIRGIL MEIERS, D/B/A 54 SPORTS – Chairman Heath noted this is a new type 104 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC20-15599 LOYAL ORDER OF MOOSE #599 – Chairman Heath noted this is a type 211-3 renewal application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL06-21727 KROGER LIMITED PARTNERSHIP – Chairman Heath noted this is a new type 208 application with the local board voting three (3) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR04-05275 ARNOLD J. GILBERT, D/B/A RONNIESONS BAR & GRILL – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the renewal permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL04-21626 SHAROB, INC., D/B/A FOWLER IGA – The Commission continued this matter until the 6-21-05 meeting.

DL40-21667 KROGER LIMITED PARTNERSHIP – Chairman Heath noted this is a new type 208 application with the local board voting two (2) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR35-97010 SAHARA CORPORATION, D/B/A BIG DADDY'S – Chairman Heath noted this is a type 210-1 transfer of location application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL68-21627 WAL-MART STORES EAST LP – Chairman Heath noted this is a new type 208 application with the local board voting two (2) to two (2).

Commissioner Sturtz and Vice Chairperson Brizzi stated that they have not had time to thoroughly review the file.

Vice Chairperson Brizzi moved to table this matter until the June 21, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR32-19642 THE ULTIMATE SPORTS BAR & GRILL, INC. – Chairman Heath noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **INACTIVE FILES**

Vice Chairperson Brizzi moved to make 109 permits inactive. Fifteen (15) permits are subject to auction and ninety-four (94) permits are not subject to the auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **APPEALS FROM LOCAL BOARD RECOMMENDATIONS**

RR64-10660 FLORNDAL, INC. AND DL42-21237 WAL-MART STORES EAST LP – Hearing Judge Choe stated appeals have been filed for the above-referenced applications.

**OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

No Policy Determinations

**UNDER ADVISEMENT**

Nothing Under Advisement

**ANNOUNCEMENTS**

No Announcements

**ADJOURNMENT**

Vice Chairperson Brizzi moved to adjourn the meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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DAVE HEATH, CHAIRMAN

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MELANIE BRIZZI, VICE CHAIRPERSON

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DALE STURTZ, COMMISSIONER